

106TH CONGRESS  
1ST SESSION

# H. R. 1862

To combat nursing home fraud and abuse, increase protections for victims of telemarketing fraud, enhance safeguards for pension plans and health care benefit programs, and enhance penalties for crimes against seniors, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 19, 1999

Mr. CONYERS (for himself, Mr. HOEFFEL, and Mr. UDALL of New Mexico) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To combat nursing home fraud and abuse, increase protections for victims of telemarketing fraud, enhance safeguards for pension plans and health care benefit programs, and enhance penalties for crimes against seniors, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Seniors Safety Act of 1999”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.

#### TITLE I—STRATEGIES FOR PREVENTING CRIMES AGAINST SENIORS

- Sec. 101. Study of crimes against seniors.
- Sec. 102. Inclusion of seniors in national crime victimization survey.

#### TITLE II—COMBATING CRIMES AGAINST SENIORS

- Sec. 201. Enhanced sentencing penalties based on age of victim.
- Sec. 202. Study and report on health care fraud sentences.
- Sec. 203. Increased penalties for fraud resulting in serious injury or death.
- Sec. 204. Safeguarding pension plans from fraud and theft.
- Sec. 205. Additional civil penalties for defrauding pension plans.
- Sec. 206. Punishing bribery and graft in connection with employee benefit plans.

#### TITLE III—PREVENTING TELEMARKETING FRAUD

- Sec. 301. Centralized complaint and consumer education service for victims of telemarketing fraud.
- Sec. 302. Blocking of telemarketing scams.

#### TITLE IV—PREVENTING HEALTH CARE FRAUD

- Sec. 401. Injunctive authority relating to false claims and illegal kickback schemes involving Federal health care programs.
- Sec. 402. Authorized investigative demand procedures.
- Sec. 403. Extending antifraud safeguards to the Federal employee health benefits program.
- Sec. 404. Grand jury disclosure.
- Sec. 405. Increasing the effectiveness of civil investigative demands in false claims investigations.

#### TITLE V—PROTECTING RESIDENTS OF NURSING HOMES

- Sec. 501. Short title.
- Sec. 502. Nursing home resident protection.

#### TITLE VI—PROTECTING THE RIGHTS OF ELDERLY CRIME VICTIMS

- Sec. 601. Use of forfeited funds to pay restitution to crime victims and regulatory agencies.
- Sec. 602. Victim restitution.
- Sec. 603. Bankruptcy proceedings not used to shield illegal gains from false claims.
- Sec. 604. Forfeiture for retirement offenses.

### 1 **SEC. 2. FINDINGS AND PURPOSES.**

- 2 (a) FINDINGS.—Congress makes the following find-
- 3 ings:

1           (1) The number of older Americans is growing  
2           both numerically and proportionally in the United  
3           States. Since 1990, the population of seniors has in-  
4           creased by almost 5,000,000, and is now 20.2 per-  
5           cent of the United States population.

6           (2) In 1997, 7 percent of victims of serious vio-  
7           lent crime were age 50 or older.

8           (3) In 1997, 17.7 percent of murder victims  
9           were age 55 or older.

10          (4) According to the National Crime Victimization  
11          Survey, persons aged 50 and older experienced  
12          approximately 673,460 incidents of violent crime, in-  
13          cluding rape and sexual assaults, robberies and gen-  
14          eral assaults, during 1997.

15          (5) Older victims of violent crime are almost  
16          twice as likely as younger victims to be raped,  
17          robbed, or assaulted at or in their own homes.

18          (6) Approximately half of Americans who are  
19          50 years old or older feel afraid to walk alone at  
20          night in their own neighborhoods.

21          (7) Seniors over the age of 50 reportedly ac-  
22          count for 37 percent of the estimated  
23          \$40,000,000,000 in losses each year due to tele-  
24          marketing fraud.

1           (8) In 1998, Congress enacted legislation to  
2       provide for increased penalties for telemarketing  
3       fraud that targets seniors.

4           (9) There has not been a comprehensive study  
5       of crimes committed against seniors since 1994.

6           (10) It has been estimated that approximately  
7       43 percent of those turning 65 can expect to spend  
8       some time in a long-term care facility, and approxi-  
9       mately 20 percent can expect to spend 5 years or  
10      longer in a such a facility.

11          (11) In 1997, approximately \$82,800,000,000  
12      was spent on nursing home care in the United  
13      States and over half of this amount was spent by the  
14      medicaid and medicare programs.

15          (12) Losses to fraud and abuse in health care  
16      reportedly cost the United States an estimated  
17      \$100,000,000,000 in 1996.

18          (13) The Inspector General for the Department  
19      of Health and Human Services has estimated that  
20      about \$12,600,000,000 in improper medicare benefit  
21      payments, due to inadvertent mistake, fraud and  
22      abuse, were made during fiscal year 1998.

23          (14) Incidents of health care fraud and abuse  
24      remain high despite awareness of the problem.

25      (b) PURPOSES.—The purposes of this Act are to—

1 (1) combat nursing home fraud and abuse;

2 (2) enhance safeguards for pension plans and  
3 health care programs;

4 (3) develop strategies for preventing and pun-  
5 ishing crimes that target or otherwise disproportion-  
6 ately affect seniors by collecting appropriate data to  
7 measure the extent of crimes committed against sen-  
8 iors and determine the extent of domestic and elder  
9 abuse of seniors; and

10 (4) prevent and deter criminal activity, such as  
11 telemarketing fraud, that results in economic and  
12 physical harm against seniors and ensure appro-  
13 priate restitution.

14 **SEC. 3. DEFINITIONS.**

15 In this Act—

16 (1) the term “crime” means any criminal of-  
17 fense under Federal or State law;

18 (2) the term “nursing home” means any insti-  
19 tution or residential care facility defined as such for  
20 licensing purposes under State law, or if State law  
21 does not employ the term nursing home, the equiva-  
22 lent term or terms as determined by the Secretary  
23 of Health and Human Services, pursuant to section  
24 1908(e) of the Social Security Act (42 U.S.C.  
25 1396g(e)); and

1           (3) the term “senior” means an individual who  
2           is more than 55 years of age.

3   **TITLE I—STRATEGIES FOR PRE-**  
4   **VENTING CRIMES AGAINST**  
5   **SENIORS**

6   **SEC. 101. STUDY OF CRIMES AGAINST SENIORS.**

7           (a) IN GENERAL.—The Attorney General shall con-  
8           duct a study relating to crimes against seniors, in order  
9           to assist in developing new strategies to prevent and other-  
10          wise reduce the incidence of those crimes.

11          (b) ISSUES ADDRESSED.—The study conducted  
12          under this section shall include an analysis of—

13               (1) the nature and type of crimes perpetrated  
14               against seniors, with special focus on—

15                       (A) the most common types of crimes that  
16                       affect seniors;

17                       (B) the nature and extent of telemarketing  
18                       fraud against seniors;

19                       (C) the nature and extent of elder abuse  
20                       inflicted upon seniors;

21                       (D) the nature and extent of financial and  
22                       material fraud targeted at seniors; and

23                       (E) the nature and extent of health care  
24                       fraud and abuse targeting seniors;

1           (2) the risk factors associated with seniors who  
2       have been victimized;

3           (3) the manner in which the Federal and State  
4       criminal justice systems respond to crimes against  
5       seniors;

6           (4) the feasibility of States establishing and  
7       maintaining a centralized computer database on the  
8       incidence of crimes against seniors that will promote  
9       the uniform identification and reporting of such  
10      crimes;

11          (5) the nature and extent of crimes targeting  
12      seniors, such as health care fraud and telemarketing  
13      fraud originating from sources outside the United  
14      States;

15          (6) the effectiveness of State programs funded  
16      under the 1987 State Elder Abuse Prevention Pro-  
17      gram in preventing and reducing the abuse and ne-  
18      glect of seniors; and

19          (7) other effective ways to prevent or reduce the  
20      occurrence of crimes against seniors.

21      (c) REPORT.—Not later than 18 months after the  
22      date of enactment of this Act, the Attorney General shall  
23      submit to the Committees on the Judiciary of the House  
24      of Representatives and the Senate a report describing the

1 results of the study under this section, which shall also  
2 include—

3           (1) an assessment of any impact of the sen-  
4           tencing enhancements promulgated by the United  
5           States Sentencing Commission pursuant to section  
6           6(b) of the Telemarketing Fraud Prevention Act of  
7           1998 (28 U.S.C. 994 note), including—

8                   (A) the number of crimes for which sen-  
9           tences were enhanced under that section; and

10                   (B) the effect of those enhanced sentences  
11           in deterring telemarketing fraud crimes tar-  
12           geting seniors;

13           (2) an assessment of the factors that result in  
14           the inclusion of seniors on the lists of names, ad-  
15           dresses, phone numbers, or Internet addresses com-  
16           piled by telemarketers or sold to telemarketers as  
17           lists of potentially vulnerable consumers (i.e. “mooch  
18           lists”); and

19           (3) an assessment of the nature and extent of  
20           nursing home fraud and abuse, which shall  
21           include—

22                   (A) the number of cases and financial im-  
23           pact on seniors of fraud and abuse involving  
24           nursing homes each year;



1 (B) procedures used effectively by State,  
2 local and Federal authorities to combat nursing  
3 home fraud and abuse; and

4 (C) a description of strategies available to  
5 consumers to protect themselves from nursing  
6 home fraud and an evaluation of the effective-  
7 ness of such strategies.

8 **SEC. 102. INCLUSION OF SENIORS IN NATIONAL CRIME VIC-**  
9 **TIMIZATION SURVEY.**

10 Beginning not later than 2 years after the date of  
11 enactment of this Act, as part of each National Crime Vic-  
12 timization Survey, the Attorney General shall include sta-  
13 tistics relating to—

14 (1) crimes targeting or disproportionately af-  
15 fecting seniors; and

16 (2) crime risk factors for seniors, including the  
17 times and locations at which crimes victimizing sen-  
18 iors are most likely to occur; and

19 (3) specific characteristics of the victims of  
20 crimes who are seniors, including age, gender, race  
21 or ethnicity, and socioeconomic status.

1     **TITLE II—COMBATING CRIMES**  
2                     **AGAINST SENIORS**

3     **SEC. 201. ENHANCED SENTENCING PENALTIES BASED ON**  
4                     **AGE OF VICTIM.**

5             (a) DIRECTIVE TO THE UNITED STATES SEN-  
6     TENCING COMMISSION.—Pursuant to its authority under  
7     section 994(p) of title 28, United States Code, and in ac-  
8     cordance with this section, the United States Sentencing  
9     Commission shall review and, if appropriate, amend sec-  
10    tion 3A1.1(a) of the Federal sentencing guidelines to in-  
11    clude the age of a crime victim as 1 of the criteria for  
12    determining whether the application of a sentencing en-  
13    hancement is appropriate.

14            (b) REQUIREMENTS.—In carrying out this section,  
15    the Commission shall—

16                (1) ensure that the Federal sentencing guide-  
17    lines and the policy statements of the Commission  
18    reflect the serious economic and physical harms as-  
19    sociated with criminal activity targeted at seniors  
20    due to their particular vulnerability;

21                (2) consider providing increased penalties for  
22    persons convicted of offenses in which the victim was  
23    a senior in appropriate circumstances;

24                (3) consult with individuals or groups rep-  
25    resenting seniors, law enforcement agencies, victims

1 organizations, and the Federal judiciary, as part of  
2 the review described in subsection (a);

3 (4) ensure reasonable consistency with other  
4 Federal sentencing guidelines and directives;

5 (5) account for any aggravating or mitigating  
6 circumstances that may justify exceptions, including  
7 circumstances for which the Federal sentencing  
8 guidelines provide sentencing enhancements;

9 (6) make any necessary conforming changes to  
10 the Federal sentencing guidelines; and

11 (7) ensure that the Federal sentencing guide-  
12 lines adequately meet the purposes of sentencing set  
13 forth in section 3553(a)(2) of title 18, United States  
14 Code.

15 (c) REPORT.—Not later than December 31, 2000, the  
16 Commission shall submit to Congress a report on issues  
17 relating to the age of crime victims, which shall include—

18 (1) an explanation of any changes to sentencing  
19 policy made by the Commission under this section;  
20 and

21 (2) any recommendations of the Commission for  
22 retention or modification of penalty levels, including  
23 statutory penalty levels, for offenses involving sen-  
24 iors.

1 **SEC. 202. STUDY AND REPORT ON HEALTH CARE FRAUD**  
2 **SENTENCES.**

3 (a) **DIRECTIVE TO THE UNITED STATES SEN-**  
4 **TENCING COMMISSION.**—Pursuant to its authority under  
5 section 994(p) of title 28, United States Code, and in ac-  
6 cordance with this section, the United States Sentencing  
7 Commission shall review and, if appropriate, amend the  
8 Federal sentencing guidelines and the policy statements  
9 of the Commission with respect to persons convicted of  
10 offenses involving fraud in connection with a health care  
11 benefit program (as defined in section 24(b) of title 18,  
12 United States Code).

13 (b) **REQUIREMENTS.**—In carrying out this section,  
14 the Commission shall—

15 (1) ensure that the Federal sentencing guide-  
16 lines and the policy statements of the Commission  
17 reflect the serious harms associated with health care  
18 fraud and the need for aggressive and appropriate  
19 law enforcement action to prevent such fraud;

20 (2) consider providing increased penalties for  
21 persons convicted of health care fraud in appropriate  
22 circumstances;

23 (3) consult with individuals or groups rep-  
24 resenting victims of health care fraud, law enforce-  
25 ment agencies, the health care industry, and the

1 Federal judiciary as part of the review described in  
2 subsection (a);

3 (4) ensure reasonable consistency with other  
4 Federal sentencing guidelines and directives;

5 (5) account for any aggravating or mitigating  
6 circumstances that might justify exceptions, includ-  
7 ing circumstances for which the Federal sentencing  
8 guidelines provide sentencing enhancements;

9 (6) make any necessary conforming changes to  
10 the Federal sentencing guidelines; and

11 (7) ensure that the Federal sentencing guide-  
12 lines adequately meet the purposes of sentencing as  
13 set forth in section 3553(a)(2) of title 18, United  
14 States Code.

15 (c) REPORT.—Not later than December 31, 2000, the  
16 Commission shall submit to Congress a report on issues  
17 relating to offenses described in subsection (a), which shall  
18 include—

19 (1) an explanation of any changes to sentencing  
20 policy made by the Commission under this section;  
21 and

22 (2) any recommendations of the Commission for  
23 retention or modification of penalty levels, including  
24 statutory penalty levels, for those offenses.

1 **SEC. 203. INCREASED PENALTIES FOR FRAUD RESULTING**  
 2 **IN SERIOUS INJURY OR DEATH.**

3 Sections 1341 and 1343 of title 18, United States  
 4 Code, are each amended by inserting before the last sen-  
 5 tence the following: “If the violation results in serious bod-  
 6 ily injury (as defined in section 1365 of this title), such  
 7 person shall be fined under this title, imprisoned not more  
 8 than 20 years, or both, and if the violation results in  
 9 death, such person shall be fined under this title, impris-  
 10 oned for any term of years or life, or both.”.

11 **SEC. 204. SAFEGUARDING PENSION PLANS FROM FRAUD**  
 12 **AND THEFT.**

13 (a) IN GENERAL.—Chapter 63 of title 18, United  
 14 States Code, is amended by adding at the end the fol-  
 15 lowing:

16 **“§ 1348. Fraud in relation to retirement arrange-**  
 17 **ments**

18 “(a) RETIREMENT ARRANGEMENT DEFINED.—In  
 19 this section—

20 “(1) IN GENERAL.—The term ‘retirement ar-  
 21 rangement’ means—

22 “(A) any employee pension benefit plan  
 23 subject to any provision of title I of the Em-  
 24 ployee Retirement Income Security Act of 1974;

1           “(B) any qualified retirement plan within  
2           the meaning of section 4974(c) of the Internal  
3           Revenue Code of 1986;

4           “(C) any medical savings account de-  
5           scribed in section 220 of the Internal Revenue  
6           Code of 1986; or

7           “(D) fund established within the Thrift  
8           Savings Fund by the Federal Retirement Thrift  
9           Investment Board pursuant to subchapter III of  
10          chapter 84 of title 5.

11          “(2) EXCEPTION FOR GOVERNMENTAL PLAN.—  
12          Such term does not include any governmental plan  
13          (as defined in section 3(32) of title I of the Em-  
14          ployee Retirement Income Security Act of 1974 (29  
15          U.S.C. 1002(32))), except as provided in paragraph  
16          (1)(D).

17          “(3) CERTAIN ARRANGEMENTS INCLUDED.—  
18          Such term shall include any arrangement that has  
19          been represented to be an arrangement described in  
20          any subparagraph of paragraph (1) (whether or not  
21          so described).

22          “(b) PROHIBITION AND PENALTIES.—Whoever exe-  
23          cutes, or attempts to execute, a scheme or artifice—

1           “(1) to defraud any retirement arrangement or  
2           other person in connection with the establishment or  
3           maintenance of a retirement arrangement; or

4           “(2) to obtain, by means of false or fraudulent  
5           pretenses, representations, or promises, any of the  
6           money or property owned by, or under the custody  
7           or control of, any retirement arrangement or other  
8           person in connection with the establishment or main-  
9           tenance of a retirement arrangement;

10 shall be fined under this title, imprisoned not more than  
11 10 years, or both.

12       “(c) ENFORCEMENT.—

13           “(1) IN GENERAL.—Subject to paragraph (2),  
14           the Attorney General may investigate any violation  
15           of and otherwise enforce this section.

16           “(2) EFFECT ON OTHER AUTHORITY.—Nothing  
17           in this subsection may be construed to preclude the  
18           Secretary of Labor or the head of any other appro-  
19           priate Federal agency from investigating a violation  
20           of this section in relation to a retirement arrange-  
21           ment subject to title I of the Employee Retirement  
22           Income Security Act of 1974 (29 U.S.C. 1001 et  
23           seq.) or any other provision of Federal law.”.



1 (b) TECHNICAL AMENDMENT.—Section 24(a)(1) of  
 2 title 18, United States Code, is amended by inserting  
 3 “1348,” after “1347,”.

4 (c) CONFORMING AMENDMENT.—The analysis for  
 5 chapter 63 of title 18, United States Code, is amended  
 6 by adding at the end the following:

“1348. Fraud in relation to retirement arrangements.”.

7 **SEC. 205. ADDITIONAL CIVIL PENALTIES FOR DEFRAUDING**  
 8 **PENSION PLANS.**

9 (a) IN GENERAL.—

10 (1) ACTION BY ATTORNEY GENERAL.—Except  
 11 as provided in subsection (b)—

12 (A) the Attorney General may bring a civil  
 13 action in the appropriate district court of the  
 14 United States against any person who engages  
 15 in conduct constituting an offense under section  
 16 1348 of title 18, United States Code, or con-  
 17 spiracy to violate such section 1348; and

18 (B) upon proof of such conduct by a pre-  
 19 ponderance of the evidence, such person shall  
 20 be subject to a civil penalty in an amount equal  
 21 to the greatest of—

22 (i) the amount of pecuniary gain to  
 23 that person;

24 (ii) the amount of pecuniary loss sus-  
 25 tained by the victim; or

1 (iii) not more than—

2 (I) \$50,000 for each such viola-  
3 tion in the case of an individual; or

4 (II) \$100,000 for each violation  
5 in the case of a person other than an  
6 individual.

7 (2) NO EFFECT ON OTHER REMEDIES.—The  
8 imposition of a civil penalty under this subsection  
9 does not preclude any other statutory, common law,  
10 or administrative remedy available by law to the  
11 United States or any other person.

12 (b) EXCEPTION.—No civil penalty may be imposed  
13 pursuant to subsection (a) with respect to conduct involv-  
14 ing a retirement arrangement that—

15 (1) is an employee pension benefit plan subject  
16 to title I of Employee Retirement Income Security  
17 Act of 1974; and

18 (2) for which the civil penalties may be imposed  
19 under section 502 of Employee Retirement Income  
20 Security Act of 1974 (29 U.S.C. 1132).

21 (c) DETERMINATION OF PENALTY AMOUNT.—In de-  
22 termining the amount of the penalty under subsection (a),  
23 the district court may consider the effect of the penalty  
24 on the violator or other person's ability to—

25 (1) restore all losses to the victims; or

1           (2) provide other relief ordered in another civil  
 2           or criminal prosecution related to such conduct, in-  
 3           cluding any penalty or tax imposed on the violator  
 4           or other person pursuant to the Internal Revenue  
 5           Code of 1986.”.

6 **SEC. 206. PUNISHING BRIBERY AND GRAFT IN CONNEC-**  
 7 **TION WITH EMPLOYEE BENEFIT PLANS.**

8           Section 1954 of title 18, United State Code, is  
 9           amended to read as follows:

10 **“§ 1954. Bribery and graft in connection with em-**  
 11 **ployee benefit plans**

12           “(a) DEFINITIONS.—In this section—

13                   “(1) the term ‘employee benefit plan’ means  
 14           any employee welfare benefit plan or employee pen-  
 15           sion benefit plan subject to any provision of title I  
 16           of the Employee Retirement Income Security Act of  
 17           1974;

18                   “(2) the terms ‘employee organization’, ‘admin-  
 19           istrator’, and ‘employee benefit plan sponsor’ mean  
 20           any employee organization, administrator, or plan  
 21           sponsor, as defined in title I of the Employment Re-  
 22           tirement Income Security Act of 1974; and

23                   “(3) the term ‘applicable person’ means a per-  
 24           son who is—

1           “(A) an administrator, officer, trustee,  
2           custodian, counsel, agent, or employee of any  
3           employee benefit plan;

4           “(B) an officer, counsel, agent, or em-  
5           ployee of an employer or an employer any of  
6           whose employees are covered by such plan;

7           “(C) an officer, counsel, agent, or em-  
8           ployee of an employee organization any of  
9           whose members are covered by such plan;

10          “(D) a person who, or an officer, counsel,  
11          agent, or employee of an organization that, pro-  
12          vides benefit plan services to such plan; or

13          “(E) a person with actual or apparent in-  
14          fluence or decisionmaking authority in regard  
15          to such plan.

16          “(b) BRIBERY AND GRAFT.—Whoever—

17               “(1) being an applicable person, receives or  
18               agrees to receive or solicits, any fee, kickback, com-  
19               mission, gift, loan, money, or thing of value, person-  
20               ally or for any other person, because of or with the  
21               intent to be corruptly influenced with respect to any  
22               action, decision, or duty of that applicable person re-  
23               lating to any question or matter concerning an em-  
24               ployee benefit plan;

1           “(2) directly or indirectly, gives or offers, or  
2           promises to give or offer, any fee, kickback, commis-  
3           sion, gift, loan, money, or thing of value, to any ap-  
4           plicable person, because of or with the intent to be  
5           corruptly influenced with respect to any action, deci-  
6           sion, or duty of that applicable person relating to  
7           any question or matter concerning an employee ben-  
8           efit plan; or

9           “(3) attempts to give, accept, or receive any  
10          thing of value with the intent to be corruptly influ-  
11          enced in violation of this subsection;

12       shall be fined under this title, imprisoned not more than  
13       5 years, or both.

14       “(c) EXCEPTIONS.—Nothing in this section may be  
15       construed to apply to any—

16           “(1) payment to or acceptance by any person of  
17           bona fide salary, compensation, or other payments  
18           made for goods or facilities actually furnished or for  
19           services actually performed in the regular course of  
20           his duties as an applicable person; or

21           “(2) payment to or acceptance in good faith by  
22           any employee benefit plan sponsor, or person acting  
23           on the sponsor’s behalf, of any thing of value relat-  
24           ing to the sponsor’s decision or action to establish,  
25           terminate, or modify the governing instruments of

an employee benefit plan in a manner that does not violate title I of the Employee Retirement Income Security Act of 1974, or any regulation or order promulgated thereunder, or any other provision of law governing the plan.”.

## **TITLE III—PREVENTING TELEMARKETING FRAUD**

### **SEC. 301. CENTRALIZED COMPLAINT AND CONSUMER EDUCATION SERVICE FOR VICTIMS OF TELEMARKETING FRAUD.**

(a) CENTRALIZED SERVICE.—

(1) REQUIREMENT.—The Federal Trade Commission shall, after consultation with the Attorney General, establish procedures to—

(A) log and acknowledge the receipt of complaints by individuals who certify that they have a reasonable belief that they have been the victim of fraud in connection with the conduct of telemarketing (as that term is defined in section 2325 of title 18, United States Code, as amended by section 302(a) of this Act);

(B) provide to individuals described in subparagraph (A), and to any other persons, information on telemarketing fraud, including—

1 (i) general information on tele-  
2 marketing fraud, including descriptions of  
3 the most common telemarketing fraud  
4 schemes;

5 (ii) information on means of referring  
6 complaints on telemarketing fraud to ap-  
7 propriate law enforcement agencies, includ-  
8 ing the Director of the Federal Bureau of  
9 Investigation, the attorneys general of the  
10 States, and the national toll-free telephone  
11 number on telemarketing fraud established  
12 by the Attorney General; and

13 (iii) information, if available, on the  
14 number of complaints of telemarketing  
15 fraud against particular companies and  
16 any record of convictions for telemarketing  
17 fraud by particular companies for which a  
18 specific request has been made; and

19 (C) refer complaints described in subpara-  
20 graph (A) to appropriate entities, including  
21 State consumer protection agencies or entities  
22 and appropriate law enforcement agencies, for  
23 potential law enforcement action.

24 (2) CENTRAL LOCATION.—The service under  
25 the procedures under paragraph (1) shall be pro-

1 vided at and through a single site selected by the  
2 Commission for that purpose.

3 (3) COMMENCEMENT.—The Commission shall  
4 commence carrying out the service not later than 1  
5 year after the date of enactment of this Act.

6 (b) CREATION OF FRAUD CONVICTION DATABASE.—

7 (1) REQUIREMENT.—The Attorney General  
8 shall establish and maintain a computer database  
9 containing information on the corporations and com-  
10 panies convicted of offenses for telemarketing fraud  
11 under Federal and State law. The database shall in-  
12 clude a description of the type and method of the  
13 fraud scheme for which each corporation or company  
14 covered by the database was convicted.

15 (2) USE OF DATABASE.—The Attorney General  
16 shall make information in the database available to  
17 the Federal Trade Commission for purposes of pro-  
18 viding information as part of the service under sub-  
19 section (a).

20 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
21 authorized to be appropriated such sums as may be nec-  
22 essary to carry out this section.

23 **SEC. 302. BLOCKING OF TELEMARKETING SCAMS.**

24 (a) EXPANSION OF SCOPE OF TELEMARKETING  
25 FRAUD SUBJECT TO ENHANCED CRIMINAL PENALTIES.—



1 Section 2325(1) of title 18, United States Code, is amend-  
2 ed by striking “telephone calls” and inserting “wire com-  
3 munications utilizing a telephone service”.

4 (b) BLOCKING OR TERMINATION OF TELEPHONE  
5 SERVICE ASSOCIATED WITH TELEMARKETING FRAUD.—

6 (1) IN GENERAL.—Chapter 113A of title 18,  
7 United States Code, is amended by adding at the  
8 end the following:

9 “§ 2328. **Blocking or termination of telephone service**

10 “(a) IN GENERAL.—If a common carrier subject to  
11 the jurisdiction of the Federal Communications Commis-  
12 sion is notified in writing by the Attorney General, acting  
13 within the Attorney General’s jurisdiction, that any wire  
14 communications facility furnished by such common carrier  
15 is being used or will be used by a subscriber for the pur-  
16 pose of transmitting or receiving a wire communication  
17 in interstate or foreign commerce for the purpose of exe-  
18 cuting any scheme or artifice to defraud, or for obtaining  
19 money or property by means of false or fraudulent pre-  
20 tenses, representations, or promises, in connection with  
21 the conduct of telemarketing, the common carrier shall  
22 discontinue or refuse the leasing, furnishing, or maintain-  
23 ing of the facility to or for the subscriber after reasonable  
24 notice to the subscriber.

1       “(b) PROHIBITION ON DAMAGES.—No damages, pen-  
 2   alty, or forfeiture, whether civil or criminal, shall be found  
 3   or imposed against any common carrier for any act done  
 4   by the common carrier in compliance with a notice re-  
 5   ceived from the Attorney General under this section.

6       “(c) RELIEF.—

7           “(1) IN GENERAL.—Nothing in this section  
 8   may be construed to prejudice the right of any per-  
 9   son affected thereby to secure an appropriate deter-  
 10   mination, as otherwise provided by law, in a Federal  
 11   court, that—

12           “(A) the leasing, furnishing, or maintain-  
 13   ing of a facility should not be discontinued or  
 14   refused under this section; or

15           “(B) the leasing, furnishing, or maintain-  
 16   ing of a facility that has been so discontinued  
 17   or refused should be restored.

18           “(2) SUPPORTING INFORMATION.—In any ac-  
 19   tion brought under this subsection, the court may  
 20   direct that the Attorney General present evidence in  
 21   support of the notice made under subsection (a) to  
 22   which such action relates.

23       “(d) DEFINITIONS.—In this section:

24           “(1) REASONABLE NOTICE TO THE SUB-  
 25   SCRIBER.—

1           “(A) IN GENERAL.—The term ‘reasonable  
2 notice to the subscriber’, in the case of a sub-  
3 scriber of a common carrier, means any infor-  
4 mation necessary to provide notice to the sub-  
5 scriber that—

6           “(i) the wire communications facilities  
7 furnished by the common carrier may not  
8 be used for the purpose of transmitting,  
9 receiving, forwarding, or delivering a wire  
10 communication in interstate or foreign  
11 commerce for the purpose of executing any  
12 scheme or artifice to defraud in connection  
13 with the conduct of telemarketing; and

14          “(ii) such use constitutes sufficient  
15 grounds for the immediate discontinuance  
16 or refusal of the leasing, furnishing, or  
17 maintaining of the facilities to or for the  
18 subscriber.

19          “(B) INCLUDED MATTER.—The term in-  
20 cludes any tariff filed by the common carrier  
21 with the Federal Communications Commission  
22 that contains the information specified in sub-  
23 paragraph (A).

1 “(2) WIRE COMMUNICATION.—The term ‘wire  
2 communication’ has the meaning given that term in  
3 section 2510(1) of this title.

4 “(3) WIRE COMMUNICATIONS FACILITY.—The  
5 term ‘wire communications facility’ means any facil-  
6 ity (including instrumentalities, personnel, and serv-  
7 ices) used by a common carrier for purposes of the  
8 transmission, receipt, forwarding, or delivery of wire  
9 communications.”.

10 (2) CONFORMING AMENDMENT.—The analysis  
11 for that chapter is amended by adding at the end  
12 the following:

“2328. Blocking or termination of telephone service.”.

## 13 **TITLE IV—PREVENTING HEALTH** 14 **CARE FRAUD**

### 15 **SEC. 401. INJUNCTIVE AUTHORITY RELATING TO FALSE** 16 **CLAIMS AND ILLEGAL KICKBACK SCHEMES** 17 **INVOLVING FEDERAL HEALTH CARE PRO-** 18 **GRAMS.**

19 (a) IN GENERAL.—Section 1345(a) of title 18,  
20 United States Code, is amended—

21 (1) in paragraph (1)—

22 (A) in subparagraph (B), by striking  
23 “, or” and inserting a semicolon;

24 (B) in subparagraph (C), by striking the  
25 period at the end and inserting “; or”; and

1 (C) by inserting after subparagraph (C)  
2 the following:

3 “(D) committing or about to commit an offense  
4 under section 1128B of the Social Security Act (42  
5 U.S.C. 1320a–7b);”; and

6 (2) in paragraph (2), by inserting “a violation  
7 of paragraph (1)(D) or” before “a banking”.

8 (b) CIVIL ACTIONS.—

9 (1) IN GENERAL.—Section 1128B of the Social  
10 Security Act (42 U.S.C. 1320a–7b) is amended by  
11 adding at the end the following:

12 “(g) CIVIL ACTIONS.—

13 “(1) IN GENERAL.—The Attorney General may  
14 bring an action in the appropriate district court of  
15 the United States to impose upon any person who  
16 carries out any activity in violation of this section  
17 with respect to a Federal health care program a civil  
18 penalty of not more than \$50,000 for each such vio-  
19 lation, or damages of 3 times the total remuneration  
20 offered, paid, solicited, or received, whichever is  
21 greater.

22 “(2) EXISTENCE OF VIOLATION.—A violation  
23 exists under paragraph (1) if 1 or more purposes of  
24 the remuneration is unlawful, and the damages shall  
25 be the full amount of such remuneration.

1           “(3) PROCEDURES.—An action under para-  
2           graph (1) shall be governed by—

3                   “(A) the procedures with regard to sub-  
4                   poenas, statutes of limitations, standards of  
5                   proof, and collateral estoppel set forth in sec-  
6                   tion 3731 of title 31, United States Code; and

7                   “(B) the Federal Rules of Civil Procedure.

8           “(4) NO EFFECT ON OTHER REMEDIES.—Noth-  
9           ing in this section may be construed to affect the  
10          availability of any other criminal or civil remedy.

11          “(h) INJUNCTIVE RELIEF.—The Attorney General  
12          may commence a civil action in an appropriate district  
13          court of the United States to enjoin a violation of this  
14          section, as provided in section 1345 of title 18, United  
15          States Code.”.

16               (2) CONFORMING AMENDMENT.—The heading  
17          of section 1128B of the Social Security Act (42  
18          U.S.C. 1320a–7b) is amended by inserting “AND  
19          CIVIL” after “CRIMINAL”.

20       **SEC. 402. AUTHORIZED INVESTIGATIVE DEMAND PROCE-**  
21                       **DURES.**

22          Section 3486 of title 18, United States Code, is  
23          amended—

24               (1) in subsection (a), by inserting “, or any al-  
25          legation of fraud or false claims (whether criminal or

1 civil) in connection with a Federal health care pro-  
2 gram (as defined in section 1128B(f) of the Social  
3 Security Act (42 U.S.C. 1320a–7b(f))),” after “Fed-  
4 eral health care offense,”; and

5 (2) by adding at the end the following:

6 “(f) PRIVACY PROTECTION.—

7 “(1) IN GENERAL.—Except as provided in para-  
8 graph (2), any record (including any book, paper,  
9 document, electronic medium, or other object or tan-  
10 gible thing) produced pursuant to a subpoena issued  
11 under this section that contains personally identifi-  
12 able health information may not be disclosed to any  
13 person, except pursuant to a court order under sub-  
14 section (e)(1).

15 “(2) EXCEPTIONS.—A record described in para-  
16 graph (1) may be disclosed—

17 “(A) to an attorney for the government for  
18 use in the performance of the official duty of  
19 the attorney (including presentation to a Fed-  
20 eral grand jury);

21 “(B) to such government personnel (in-  
22 cluding personnel of a State or subdivision of a  
23 State) as are determined to be necessary by an  
24 attorney for the government to assist an attor-  
25 ney for the government in the performance of

1 the official duty of that attorney to enforce  
2 Federal criminal law;

3 “(C) as directed by a court preliminarily to  
4 or in connection with a judicial proceeding; and

5 “(D) as permitted by a court—

6 “(i) at the request of a defendant in  
7 an administrative, civil, or criminal action  
8 brought by the United States, upon a  
9 showing that grounds may exist for a mo-  
10 tion to exclude evidence obtained under  
11 this section; or

12 “(E) at the request of an attorney for the  
13 government, upon a showing that such matters  
14 may disclose a violation of State criminal law,  
15 to an appropriate official of a State or subdivi-  
16 sion of a State for the purpose of enforcing  
17 such law.

18 “(3) MANNER OF COURT ORDERED DISCLO-  
19 SURES.—If a court orders the disclosure of any  
20 record described in paragraph (1), the disclosure  
21 shall be made in such manner, at such time, and  
22 under such conditions as the court may direct and  
23 shall be undertaken in a manner that preserves the  
24 confidentiality and privacy of individuals who are the  
25 subject of the record, unless disclosure is required by



1 the nature of the proceedings, in which event the at-  
2 torney for the government shall request that the pre-  
3 siding judicial or administrative officer enter an  
4 order limiting the disclosure of the record to the  
5 maximum extent practicable, including redacting the  
6 personally identifiable health information from pub-  
7 licly disclosed or filed pleadings or records.

8 “(4) DESTRUCTION OF RECORDS.—Any record  
9 described in paragraph (1), and all copies of that  
10 record, in whatever form (including electronic) shall  
11 be destroyed not later than 90 days after the date  
12 on which the record is produced, unless otherwise or-  
13 dered by a court of competent jurisdiction, upon a  
14 showing of good cause.

15 “(5) EFFECT OF VIOLATION.—Any person who  
16 knowingly fails to comply with this subsection may  
17 be punished as in contempt of court.

18 “(g) PERSONALLY IDENTIFIABLE HEALTH INFORMA-  
19 TION DEFINED.—In this section, the term ‘personally  
20 identifiable health information’ means any information, in-  
21 cluding genetic information, demographic information,  
22 and tissue samples collected from an individual, whether  
23 oral or recorded in any form or medium, that—

24 “(1) relates to the past, present, or future phys-  
25 ical or mental health or condition of an individual,

1 the provision of health care to an individual, or the  
 2 past, present, or future payment for the provision  
 3 of health care to an individual; and

4 “(2) either—

5 “(A) identifies an individual; or

6 “(B) with respect to which there is a rea-  
 7 sonable basis to believe that the information  
 8 can be used to identify an individual.”.

9 **SEC. 403. EXTENDING ANTIFRAUD SAFEGUARDS TO THE**  
 10 **FEDERAL EMPLOYEE HEALTH BENEFITS**  
 11 **PROGRAM.**

12 Section 1128B(f)(1) of the Social Security Act (42  
 13 U.S.C. 1320a–7b(f)(1)) is amended by striking “(other  
 14 than the health insurance program under chapter 89 of  
 15 title 5, United States Code)”.

16 **SEC. 404. GRAND JURY DISCLOSURE.**

17 Section 3322 of title 18, United States Code, is  
 18 amended—

19 (1) by redesignating subsections (c) and (d) as  
 20 subsections (d) and (e), respectively; and

21 (2) by inserting after subsection (b) the fol-  
 22 lowing:

23 “(c) GRAND JURY DISCLOSURE.—Subject to section  
 24 3486(f), upon ex parte motion of an attorney for the gov-  
 25 ernment showing that such disclosure would be of assist-

1   ance to enforce any provision of Federal law, a court may  
 2   direct the disclosure of any matter occurring before a  
 3   grand jury during an investigation of a Federal health  
 4   care offense (as defined in section 24(a) of this title) to  
 5   an attorney for the government to use in any investigation  
 6   or civil proceeding relating to fraud or false claims in con-  
 7   nection with a Federal health care program (as defined  
 8   in section 1128B(f) of the Social Security Act (42 U.S.C.  
 9   1320a–7b(f))).”.

10   **SEC. 405. INCREASING THE EFFECTIVENESS OF CIVIL IN-**  
 11                           **VESTIGATIVE DEMANDS IN FALSE CLAIMS IN-**  
 12                           **VESTIGATIONS.**

13       Section 3733 of title 31, United States Code, is  
 14   amended—

15               (1) in subsection (a)(1), in the second sentence,  
 16       by inserting “, except to the Deputy Attorney Gen-  
 17       eral or to an Assistant Attorney General” before the  
 18       period at the end; and

19               (2) in subsection (i)(2)(C), by adding at the end  
 20       the following: “Disclosure of information to a person  
 21       who brings a civil action under section 3730, or such  
 22       person’s counsel, shall be allowed only upon applica-  
 23       tion to a United States district court showing that  
 24       such disclosure would assist the Department of Jus-  
 25       tice in carrying out its statutory responsibilities.”.

1           **TITLE V—PROTECTING**  
 2           **RESIDENTS OF NURSING HOMES**

3           **SEC. 501. SHORT TITLE.**

4           This title may be cited as the “Nursing Home Resi-  
 5           dent Protection Act of 1999”.

6           **SEC. 502. NURSING HOME RESIDENT PROTECTION.**

7           (a) PROTECTION OF RESIDENTS IN NURSING HOMES  
 8           AND OTHER RESIDENTIAL HEALTH CARE FACILITIES.—  
 9           Chapter 63 of title 18, United States Code, is amended  
 10          by adding at the end the following:

11       **“§ 1349. Pattern of violations resulting in harm to**  
 12                       **residents of nursing homes and related**  
 13                       **facilities**

14       “(a) DEFINITIONS.—In this section:

15               “(1) ENTITY.—The term ‘entity’ means any  
 16               residential health care facility (including facilities  
 17               that do not exclusively provide residential health  
 18               care services), any entity that manages a residential  
 19               health care facility, or any entity that owns, directly  
 20               or indirectly, a controlling interest or a 50 percent  
 21               or greater interest in 1 or more residential health  
 22               care facilities including States, localities, and polit-  
 23               ical subdivisions thereof.

24               “(2) FEDERAL HEALTH CARE PROGRAM.—The  
 25               term ‘Federal health care program’ has the meaning

1 given that term in section 1128B(f) of the Social Se-  
2 curity Act.

3 “(3) PATTERN OF VIOLATIONS.—The term  
4 ‘pattern of violations’ means multiple violations of a  
5 single Federal or State law, regulation, or rule or  
6 single violations of multiple Federal or State laws,  
7 regulations, or rules, that are widespread, systemic,  
8 repeated, similar in nature, or result from a policy  
9 or practice.

10 “(4) RESIDENTIAL HEALTH CARE FACILITY.—  
11 The term ‘residential health care facility’ means any  
12 facility (including any facility that does not exclu-  
13 sively provide residential health care services) includ-  
14 ing skilled and unskilled nursing facilities and men-  
15 tal health and mental retardation facilities, that—

16 “(A) receives Federal funds, directly from  
17 the Federal Government or indirectly from a  
18 third party on contract with or receiving a  
19 grant or other monies from the Federal govern-  
20 ment, to provide health care; or

21 “(B) provides health care services in a res-  
22 idential setting and, in any calendar year in  
23 which a violation occurs, is the recipient of ben-  
24 efits or payments in excess of \$10,000 from a  
25 Federal health care program.

1           “(5) STATE.—The term ‘State’ means each of  
2           the several States of the United States, the District  
3           of Columbia, and any commonwealth, territory, or  
4           possession of the United States.

5           “(b) PROHIBITION AND PENALTIES.—Whoever  
6           knowingly and willfully engages in a pattern of violations  
7           that affects the health, safety, or care of individuals resid-  
8           ing in a residential health care facility or facilities, and  
9           that results in significant physical or mental harm to 1  
10          or more of such residents, shall be punished as provided  
11          in section 1347, except that any organization shall be  
12          fined not more than \$2,000,000 per residential health care  
13          facility.

14          “(c) CIVIL PROVISIONS.—

15                 “(1) IN GENERAL.—The Attorney General may  
16                 bring an action in a district court of the United  
17                 States to impose on any individual or entity that en-  
18                 gages in a pattern of violations that affects the  
19                 health, safety, or care of individuals residing in a  
20                 residential health care facility, and that results in  
21                 physical or mental harm to 1 or more such resi-  
22                 dents, a civil penalty or—

23                         “(A) in the case of an individual (other  
24                         than an owner, operator, officer or manager of

1           such a residential health care facility), not more  
2           than \$10,000;

3           “(B) in the case of an individual who is an  
4           owner, operator, officer, or manager of such a  
5           residential health care facility, not more than  
6           \$100,000 for each separate facility involved in  
7           the pattern of violations under this section; or

8           “(C) in the case of a residential health  
9           care facility, not more than \$1,000,000 for each  
10          pattern of violations, and in the case of an enti-  
11          ty, not more than \$1,000,000 for each separate  
12          residential health care facility involved in the  
13          pattern of violations owned or managed by that  
14          entity.

15          “(2) OTHER APPROPRIATE RELIEF.—If the At-  
16          torney General has reason to believe that an indi-  
17          vidual or entity is engaging in or is about to engage  
18          in a pattern of violations that would affect the  
19          health, safety, or care of individuals residing in a  
20          residential health care facility, and that results in or  
21          has the potential to result in physical or mental  
22          harm to 1 or more such residents, the Attorney Gen-  
23          eral may petition an appropriate district court of the  
24          United States for appropriate equitable and declara-  
25          tory relief to eliminate the pattern of violations.

1           “(3) PROCEDURES.—In any action under this  
2 subsection—

3           “(A) a subpoena requiring the attendance  
4 of a witness at a trial or hearing may be served  
5 at any place in the United States;

6           “(B) the action may not be brought more  
7 than 6 years after the date on which the viola-  
8 tion occurs;

9           “(C) the United States shall be required to  
10 prove each charge by a preponderance of the  
11 evidence;

12           “(D) the civil investigative demand proce-  
13 dures set forth in the Antitrust Civil Process  
14 Act (15 U.S.C. 1311 et seq.) and regulations  
15 promulgated pursuant thereto shall apply to  
16 any investigation; and

17           “(E) the filing or resolution of a matter  
18 shall not preclude any other remedy that is  
19 available to the United States or any other per-  
20 son.

21       “(d) PROHIBITION AGAINST RETALIATION.—Any  
22 person who is the subject of retaliation, either directly or  
23 indirectly, for reporting a condition that may constitute  
24 grounds for relief under this section may bring an action



1 in an appropriate district court of the United States for  
2 damages, attorneys' fees, and other relief.”.

3 (b) AUTHORIZED INVESTIGATIVE DEMAND PROCE-  
4 DURES.—Section 3486(a)(1) of title 18, United States  
5 Code, is amended by inserting “or act or activity involving  
6 section 1349 of this title” after “Federal health care of-  
7 fense”.

8 (c) CONFORMING AMENDMENT.—The analysis for  
9 chapter 63 of title 18 United States Code, is amended by  
10 adding at the end the following:

“1349. Pattern of violations resulting in harm to residents of nursing homes and  
related facilities.”.

## 11 **TITLE VI—PROTECTING THE** 12 **RIGHTS OF ELDERLY CRIME** 13 **VICTIMS**

### 14 **SEC. 601. USE OF FORFEITED FUNDS TO PAY RESTITUTION** 15 **TO CRIME VICTIMS AND REGULATORY AGEN-** 16 **CIES.**

17 Section 981(e) of this title 18, United States Code,  
18 is amended—

19 (1) in each of paragraphs (3), (4), and (5), by  
20 striking “in the case of property referred to in sub-  
21 section (a)(1)(C)” and inserting “in the case of  
22 property forfeited in connection with an offense re-  
23 sulting in a pecuniary loss to a financial institution  
24 or regulatory agency”;

1           (2) by striking paragraph (6) and inserting the  
2           following:

3           “(6) as restoration to any victim of the offense  
4           giving rise to the forfeiture, including, in the case of  
5           a money laundering offense, any offense constituting  
6           the underlying specified unlawful activity; or”; and

7           (3) in paragraph (7), by striking “in the case  
8           of property referred to in subsection (a)(1)(D)” and  
9           inserting “in the case of property forfeited in con-  
10          nection with an offense relating to the sale of assets  
11          acquired or held by any Federal financial institution  
12          or regulatory agency, or person appointed by such  
13          agency, as receiver, conservator, or liquidating agent  
14          for an financial institution”.

15   **SEC. 602. VICTIM RESTITUTION.**

16          Section 413 of the Controlled Substances Act (21  
17   U.S.C. 853) is amended by adding at the end the fol-  
18   lowing:

19          “(r) VICTIM RESTITUTION.—

20                 “(1) SATISFACTION OF ORDER OF RESTITU-  
21          TION.—

22                         “(A) IN GENERAL.—Except as provided in  
23                         subparagraph (B), a defendant may not use  
24                         property subject to forfeiture under this section  
25                         to satisfy an order of restitution.

1           “(B) EXCEPTION.—If there are 1 or more  
2           identifiable victims entitled to restitution from a  
3           defendant, and the defendant has no assets  
4           other than the property subject to forfeiture  
5           with which to pay restitution to the victim or  
6           victims, the attorney for the Government may  
7           move to dismiss a forfeiture allegation against  
8           the defendant before entry of a judgment of  
9           forfeiture in order to allow the property to be  
10          used by the defendant to pay restitution in  
11          whatever manner the court determines to be ap-  
12          propriate if the court grants the motion. In  
13          granting a motion under this subparagraph, the  
14          court shall include a provision ensuring that  
15          costs associated with the identification, seizure,  
16          management, and disposition of the property  
17          are recovered by the United States.

18          “(2) RESTORATION OF FORFEITED PROP-  
19          PERTY.—

20               “(A) IN GENERAL.—If an order of for-  
21               feiture is entered pursuant to this section and  
22               the defendant has no assets other than the for-  
23               feited property to pay restitution to 1 or more  
24               identifiable victims who are entitled to restitu-  
25               tion, the Government shall restore the forfeited

1 property to the victims pursuant to subsection  
2 (i)(1) once the ancillary proceeding under sub-  
3 section (n) has been completed and the costs of  
4 the forfeiture action have been deducted.

5 “(B) DISTRIBUTION OF PROPERTY.—On  
6 motion of the attorney for the Government, the  
7 court may enter any order necessary to facili-  
8 tate the distribution of any property restored  
9 under this paragraph.

10 “(3) VICTIM DEFINED.—In this subsection, the  
11 term ‘victim’—

12 “(A) means a person other than a person  
13 with a legal right, title, or interest in the for-  
14 feited property sufficient to satisfy the standing  
15 requirements of subsection (n)(2) who may be  
16 entitled to restitution from the forfeited funds  
17 pursuant to section 9.8 of part 9 of title 28,  
18 Code of Federal Regulations (or any successor  
19 to that regulation); and

20 “(B) includes any person who is the victim  
21 of the offense giving rise to the forfeiture, or of  
22 any offense that was part of the same scheme,  
23 conspiracy, or pattern of criminal activity, in-  
24 cluding, in the case of a money laundering of-

1           fense, any offense constituting the underlying  
2           specified unlawful activity.”.

3 **SEC. 603. BANKRUPTCY PROCEEDINGS NOT USED TO**  
4                   **SHIELD ILLEGAL GAINS FROM FALSE**  
5                   **CLAIMS.**

6           (a) CERTAIN ACTIONS NOT STAYED BY BANK-  
7           RUPTCY PROCEEDINGS.—

8                   (1) IN GENERAL.—Notwithstanding any other  
9           provision of law, the commencement or continuation  
10          of an action under section 3729 of title 31, United  
11          States Code, does not operate as a stay under sec-  
12          tion 105(a) or 362(a)(1) of title 11, United States  
13          Code.

14                  (2) CONFORMING AMENDMENT.—Section  
15          362(b) of title 11, United States Code, is  
16          amended—

17                          (A) in paragraph (17), by striking “or” at  
18                  the end;

19                          (B) in paragraph (18), by striking the pe-  
20                  riod at the end and inserting “; or”; and

21                          (C) by adding at the end the following:

22                                  “(19) the commencement or continuation of an  
23                  action under section 3729 of title 31.”.

1 (b) CERTAIN DEBTS NOT DISCHARGEABLE IN BANK-  
 2 RUPTCY.—Section 523 of title 11, United States Code, is  
 3 amended by adding at the end the following:

4 “(f) A discharge under section 727, 1141, 1228(a),  
 5 1228(b), or 1328(b) does not discharge a debtor from a  
 6 debt owed for violating section 3729 of title 31.”.

7 (c) REPAYMENT OF CERTAIN DEBTS CONSIDERED  
 8 FINAL.—

9 (1) IN GENERAL.—Chapter 1 of title 11, United  
 10 States Code, is amended by adding at the end the  
 11 following:

12 **“§ 111. False claims**

13 “No transfer on account of a debt owed to the United  
 14 States for violating 3729 of title 31, or under a com-  
 15 promise order or other agreement resolving such a debt  
 16 may be avoided under section 544, 545, 547, 548, 549,  
 17 553(b), or 742(a).”.

18 (2) CONFORMING AMENDMENT.—The analysis  
 19 for chapter 1 of title 11, United States Code, is  
 20 amended by adding at the end the following:

“111. False claims.”.

21 **SEC. 604. FORFEITURE FOR RETIREMENT OFFENSES.**

22 (a) CRIMINAL FORFEITURE.—Section 982(a) of title  
 23 18, United States Code, is amended by adding at the end  
 24 the following:

25 “(9) CRIMINAL FORFEITURE.—

1           “(A) IN GENERAL.—The court, in imposing  
2           sentence on a person convicted of a retirement of-  
3           fense, shall order the person to forfeit property, real  
4           or personal, that constitutes or that is derived, di-  
5           rectly or indirectly, from proceeds traceable to the  
6           commission of the offense.

7           “(B) RETIREMENT OFFENSE DEFINED.—In  
8           this paragraph, the term ‘retirement offense’ means  
9           a violation of any of the following provisions of law,  
10          if the violation, conspiracy, or solicitation relates to  
11          a retirement arrangement (as defined in section  
12          1348 of title 18, United States Code):

13                 “(i) Section 664, 1001, 1027, 1341, 1343,  
14                 1348, 1951, 1952, or 1954 of title 18, United  
15                 States Code.

16                 “(ii) Sections 411, 501, or 511 of the Em-  
17                 ployee Retirement Income Security Act of 1974  
18                 (29 U.S.C. 1111, 1131, 1141).”.

19          (b) CIVIL FORFEITURE.—Section 981(a)(1) of title  
20          18, United States Code, is amended by adding at the end  
21          the following:

22                 “(G) Any property, real or personal, that con-  
23                 stitutes or is derived, directly or indirectly, from pro-  
24                 ceeds traceable to the commission of a violation of,  
25                 a criminal conspiracy to violated or solicitation to

- 1       commit a crime of violence involving a retirement of-
- 2       fense (as defined in section 982(a)(9)(B)).”.

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